

House Bill 1435 (AS PASSED HOUSE AND SENATE)

By: Representatives Burmeister of the 119th, Brown of the 69th, Lunsford of the 110th, and Walker of the 107th

A BILL TO BE ENTITLED
AN ACT

To amend Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to primaries and elections generally, so as to add certain definitions; to authorize an attendant care giver to provide assistance in voting an absentee ballot; to provide for the manner of assistance in voting for persons with disabilities; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 2 of Title 21 of the Official Code of Georgia Annotated, relating to primaries and elections generally, is amended by striking paragraph (9) of Code Section 21-2-2, relating to definitions, and inserting in lieu thereof a new paragraph (9) and adding new paragraphs (.1) and (.2) to read as follows:

"(.1) 'Activities of daily living' includes eating, toileting, grooming, dressing, shaving, transferring, and other personal care services.

(.2) 'Attendant care services' means services and supports furnished to an individual with a physical disability, as needed, to assist in accomplishing activities of daily living, instrumental activities of daily living, and health related functions through hands-on assistance, supervision, or cuing."

"(9) ~~Reserved~~ 'Health related functions' means functions that can be delegated or assigned by licensed health care professionals under state law to be performed by an attendant."

SECTION 2.

Said chapter is further amended by striking subsection (d) of Code Section 21-2-265, relating to polling places and facilities for disabled voters, and inserting in lieu thereof a new subsection (d) to read as follows:

"(d) The superintendent of a county or the governing authority of a municipality, in selecting and fixing a polling place in each precinct, shall select, if practicable, a polling place with suitable and appropriate access ~~to~~ for disabled ~~voters~~ electors. If no such practicable locations exist within the precinct, the superintendent of a county or the governing authority of a municipality may effect temporary modifications to such existing locations as will, in his or her or its judgment, provide more convenient and appropriate access to the polling place by the disabled ~~voter~~ elector. No polling place shall be selected or used under any circumstances which does not have suitable and appropriate access ~~to~~ for persons with disabilities for the purpose of voting; and any person, whether or not personally aggrieved, may bring an action for mandamus to require that all polling places in the county or municipality have suitable and appropriate access ~~to~~ for persons with disabilities for the purpose of voting."

SECTION 3.

Said chapter is further amended by striking paragraph (1) of subsection (c) of Code Section 21-2-384, relating to preparation and delivery of absentee ballots, and inserting in lieu thereof a new paragraph (1) to read as follows:

"(c)(1) The oaths referred to in subsection (b) of this Code section shall be in substantially the following form:

I, the undersigned, do swear (or affirm) that I am a citizen of the United States and of the State of Georgia; that my residence address is _____ County, Georgia; that I possess the qualifications of an elector required by the laws of the State of Georgia; that I am entitled to vote in the precinct containing my residence in the primary or election in which this ballot is to be cast; that I am eligible to vote by absentee ballot; that I have not marked or mailed any other absentee ballot, nor will I mark or mail another absentee ballot for voting in such primary or election; nor shall I vote therein in person; and that I have read and understand the instructions accompanying this ballot; and that I have carefully complied with such instructions in completing this ballot. I understand that the offer or acceptance of money or any other object of value to vote for any particular candidate, list of candidates, issue, or list of issues included in this election constitutes an act of voter fraud and is a felony under Georgia law.

 Elector's Residence
 Address

 Month and Day of
 Elector's Birth

 Signature or Mark of Elector

Oath of Person Assisting Elector (if any):

I, the undersigned, do swear (or affirm) that I assisted the above-named elector in marking such elector's absentee ballot as such elector personally communicated such elector's preference to me; ~~that I am satisfied that such elector presently possesses the disability noted below;~~ and that ~~by reason of such disability~~ such elector is entitled to receive assistance in voting under provisions of subsection (a) of Code Section 21-2-409.

This, the _____ day of _____.

 Signature of Person Assisting
 Elector -- Relationship

Reason for assistance (Check appropriate square):

- () Elector is unable to read the English language.
 () Elector ~~has following~~ requires assistance due to physical disability
 _____.

The forms upon which such oaths are printed shall contain the following information:

Georgia law provides, in subsection (b) of Code Section 21-2-409, that no person shall assist more than ten electors in any primary, or election, or runoff in which there is no federal candidate on the ballot.

Georgia law further provides that any person who knowingly falsifies information so as to vote illegally by absentee ballot or who illegally gives or receives assistance in voting, as specified in Code Section 21-2-568, 21-2-573, or 21-2-579, shall be guilty of a misdemeanor."

SECTION 4.

Said chapter is further amended by striking subsection (b) of Code Section 21-2-385, relating to procedure for voting by absentee ballot, and inserting in lieu thereof a new subsection (b) to read as follows:

"(b) A physically disabled or illiterate elector may receive assistance in preparing his or her ballot from one of the following: any elector who is qualified to vote in the same county or municipality as the disabled or illiterate elector; an attendant care provider or a person providing attendant care; or the mother, father, grandparent, aunt, uncle, brother, sister, spouse, son, daughter, niece, nephew, grandchild, son-in-law, daughter-in-law, mother-in-law, father-in-law, brother-in-law, or sister-in-law of the disabled or illiterate elector. The person rendering assistance to the elector in preparing the ballot shall sign the oath printed on the same envelope as the oath to be signed by the elector. If the disabled or illiterate elector is sojourning outside his or her own county or municipality, a notary public of the jurisdiction may give such assistance and shall sign the oath printed on the same envelope as the oath to be signed by the elector. No person shall assist more than ten such electors in any primary, election, or runoff in which there is no federal candidate on the ballot."

SECTION 5.

Said chapter is further amended by striking subsection (a) of Code Section 21-2-402, relating to preparation of voter's certificates by Secretary of State, and inserting in lieu thereof a new subsection (a) to read as follows:

"(a) At each primary and election, the Secretary of State shall prepare and furnish to each superintendent a suitable number of voter's certificates which shall be in substantially the following form:

VOTER'S CERTIFICATE

I hereby certify that I am qualified to vote at the (primary or election) held on _____, that I have not and will not vote elsewhere in this (primary or election) in my own name or in any other name, and that I am a citizen of the United States and am not currently serving a sentence for a felony conviction. I understand that making a false statement on this certificate is a felony under Code Section 21-2-562.

Signature _____

Current residence address of elector:

Elector's date of birth: _____

Name or initials of poll officer receiving voter's certificate: _____

In case of physical disability or illiteracy, fill out the following:

~~Hereby certify that the voter is unable to sign his or her name by reason of the following:~~

Reason for assistance (Check appropriate square):

() Elector is unable to read the English language.

() Elector requires assistance due to physical disability.

Signature of poll officer

Number of stub of ballot or number of admission to voting machine: _____"

SECTION 6.

Said chapter is further amended by striking Code Section 21-2-409, relating to assisting electors who cannot read English or who have physical disabilities, and inserting in lieu thereof a new Code Section 21-2-409 to read as follows:

"21-2-409.

(a) No elector shall receive any assistance in voting at any primary or election unless he or she is unable to read the English language or he or she has a ~~physical~~ disability which renders him or her unable to see or mark the ballot or operate the voting equipment or to enter the voting compartment or booth without assistance. ~~The~~ A person assisting an elector shall take an oath that shall be administered to him or her and placed in writing by identify himself or herself to a manager, giving the reason why the elector requires assistance poll worker who shall record such information on the disabled elector's voter certificate showing that such person provided assistance in voting to such elector. ~~The printed name and the signature of such person assisting the elector shall be provided on the oath. An elector who declares that by reason of blindness he or she is unable to cast a vote as he or she wishes may receive assistance on the basis of the blind elector's declaration without the necessity of an oath. The printed name and the signature of such person assisting a blind elector shall be provided on the declaration.~~

(b)(1) In elections in which there is a federal candidate on the ballot, any elector who is entitled to receive assistance in voting under this Code section shall be permitted by the managers to select any person of the elector's choice except the elector's employer or agent of that employer or officer or agent of the elector's union.

(2) In all other elections, any elector who is entitled to receive assistance in voting under this Code section shall be permitted by the managers to select (1) any elector, except a poll officer or poll watcher, who is a resident of the precinct in which the elector requiring assistance is attempting to vote; or (2) the mother, father, sister, brother, spouse, or child of the elector entitled to receive assistance, to enter the voting compartment or booth with him or her to assist in voting, such assistance to be rendered inside the voting

1 compartment or booth. No person shall assist more than ten such electors in any primary,
2 election, or runoff covered by this paragraph. No person whose name appears on the
3 ballot as a candidate at a particular election nor the mother, father, grandparent, aunt,
4 uncle, sister, brother, spouse, son, daughter, niece, nephew, grandchild, son-in-law,
5 daughter-in-law, mother-in-law, father-in-law, brother-in-law, or sister-in-law of that
6 candidate may offer assistance during that particular election under the provisions of this
7 Code section to any voter who is not related to such candidate. For the purposes of this
8 paragraph, 'related to such candidate' shall mean the candidate's mother, father,
9 grandparent, aunt, uncle, sister, brother, spouse, son, daughter, niece, nephew, grandchild,
10 son-in-law, daughter-in-law, mother-in-law, father-in-law, brother-in-law, or
11 sister-in-law.

12 (c) The oaths or declarations of assisted electors shall be returned by the chief manager to
13 the superintendent. The oaths or declarations of assisted electors shall be available in the
14 superintendent's office for public inspection."

15 **SECTION 7.**

16 Said chapter is further amended by striking subsection (b) of Code Section 21-2-431, relating
17 to execution of voter's certificates, and inserting in lieu thereof a new subsection (b) to read
18 as follows:

19 "(b) If any elector was unable to sign his or her name at the time of registration or if,
20 having been able to sign his or her name when registered, he or she subsequently shall have
21 become, through physical disability, unable to sign his or her name when he or she applies
22 to vote, he or she shall establish his or her identity to the satisfaction of the poll officers;
23 and in such case he or she shall not be required to sign a voter's certificate, but a certificate
24 shall be prepared for him or her by a poll officer, ~~upon which the facts as to such disability~~
25 ~~shall be noted and attested by the signature of such poll officer."~~

26 **SECTION 8.**

27 Said chapter is further amended by striking subsection (b) of Code Section 21-2-451, relating
28 to execution of voter's certificate, and inserting in lieu thereof a new subsection (b) to read
29 as follows:

30 "(b) If any elector was unable to sign his or her name at the time of registration or, if
31 having been able to sign his or her name when registered, he or she subsequently shall have
32 become, through physical disability, unable to sign his or her name when he or she applies
33 to vote, he or she shall establish his or her identity to the satisfaction of the poll officers;
34 and in such case he or she shall not be required to sign a voter's certificate, but a certificate

1 shall be prepared for him or her by a poll officer, ~~upon which the facts as to such disability~~
2 ~~shall be noted and attested by the signature of such poll officer."~~

3 **SECTION 9.**

4 This Act shall become effective on January 1, 2007.

5 **SECTION 10.**

6 All laws and parts of laws in conflict with this Act are repealed.